

1                               BEFORE THE  
2                               ILLINOIS COMMERCE COMMISSION  
3   IN THE MATTER OF:               )  
4   ELECTRIC POLICY MEETING        )  
5                               Chicago, Illinois  
6  
7                               July 10, 2002  
8  
9       Met, pursuant to notice at 1:30 o'clock p.m.  
10  
11   BEFORE:  
12  
13       THE COMMISSION EN BANC  
14  
15   APPEARANCES:  
16  
17       MR. FRANK M. CLARK and  
18       MS. ARLENE JURACEK  
19               appearing for  
20       Commonwealth Edison Company  
21  
22   SULLIVAN REPORTING COMPANY, by  
23   Patricia Wesley, CSR  
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1           COMMISSIONER HARVILL: Go on the record. Good  
2 afternoon. This is a Special Open Meeting of the  
3 Illinois Commerce Commission held pursuant to notice  
4 and the applicable statutes

5                   Present today are Commissioners Mathias,  
6 Kretschmer, Hurley, Squires, and myself, Commissioner  
7 Harvill. Today's Special Opening Meeting is being  
8 held as an Electric Policy Meeting for the purpose of  
9 discussing the details of Commonwealth Edison  
10 Company's proposed petition to the Commission that  
11 would declare electric service competitive for a  
12 portion of its largest nonresidential customers.

13                   With us today are representatives of  
14 Commonwealth Edison, including Frank Clark, President  
15 of Commonwealth Edison Company, and Arlene Juracek,  
16 Vice President of Regulatory and Strategic Services  
17 for ComEd.

18                   Before I turn these over to them, I would  
19 like to take this opportunity to embarrass Frank a  
20 little bit here and congratulate him on being named as  
21 one of the top 50 most powerful Black executives in  
22 the United States by Fortune 500 -- excuse me -- by

1 Forbes Magazine. I think you were ranked twenty-third  
2 if my information is correct.

3 MR. CLARK: And I wonder who the other  
4 twenty-second are.

5 COMMISSIONER HARVILL: I don't think anybody could  
6 take Oprah down.

7 That being said, congratulations, and I  
8 know the other Commissioners share in my  
9 congratulations to you as well.

10 With that being said, I will turn things  
11 over to you and we will listen to your presentation,  
12 and at the end of that presentation, we will  
13 undoubtedly have some questions for you.

14 So with that, I'll turn things over to  
15 you now.

16 PRESENTATION

17 BY

18 MR. CLARK:

19 Thank you, Mr. Harvill, and thank you for  
20 that kind recognition, and clearly my mother and my  
21 children were heavily impressed. I'm not sure about  
22 others. Thank you, nevertheless.

1                   We are here today to talk about what we  
2 believe to be the next necessary step in the  
3 development of the emerging competitive market in  
4 Illinois and hopefully around the rest of the  
5 country.

6                   As you will hear, as Arlene walks through  
7 the details of our proposal, we are not naive and we  
8 are not pretending competition exist where it does not  
9 and this process addresses the recognition that for  
10 small customers, mass market customers, that we would  
11 identify that the competitive market is emerging  
12 shortly, but ultimately I think there will be  
13 competition there. That it clearly not the case for  
14 larger customers who have the ability to exercise  
15 choice to make good, economic decisions and, indeed,  
16 have already done so.

17                  A little bit over a year ago Pam Strobel  
18 (phonetic), the Chairman and CEO of Exelon Energy  
19 Delivery Corporation, which ComEd is one of two  
20 operating companies, sent a letter to the Commission  
21 outlining a Provider of Last Resort, POLR, Proposal,  
22 and essentially it had two components. It provided a

1 fixed tariff for mass market customers, plus a adder  
2 for certain administrative and other costs. In  
3 addition to that, it would provide for the large  
4 commercial industrial customers to be phased into the  
5 marketplace where, indeed, most of them have already  
6 chose to exercise choice.

7                   What we are going to be asking the  
8 Commission to do when we make our filing, which we'll  
9 be making shortly after this presentation, is to  
10 declare our Rate 6L, our large commercial industrial  
11 customer tariff, competitive. Arlene will give you  
12 all the details.

13                   My purpose today is to emphasize the  
14 importance of -- from ComEd's perspective of the  
15 Commission giving serious consideration to this  
16 request and the need for approval to advance in the  
17 continuation of the development of the competitive  
18 market in Illinois.

19                   And with that, I'll turn it over to  
20 Arlene Juracek and hopefully we will be available to  
21 respond to your questions.

22           COMMISSIONER HARVILL: You have five.

1                   PRESENTATION

2                   BY

3                   MS. JURACEK:

4                   Thank you. I'm always happy to play  
5 straight man with Frank. Terrific, terrific act to  
6 follow.

7                   Today, I will bring together a lot of  
8 information that we have actually been sharing with  
9 you over the last several months, and, as Frank  
10 indicated, we are not naive. We hope that we are not  
11 overreaching. We don't believe that we are  
12 overreaching, but when you see all this information  
13 put together in the packets that we have prepared, and  
14 I think you will agree that it does tell a compelling  
15 story to support the competitive declaration that we  
16 are going to be seeking for 3 megawatts and greater  
17 customers being served on Rate 6L.

18                  We are certainly going to welcome your  
19 feedback and be very interested in your comments and  
20 dialogue that may be caused by today's discussion,  
21 and with that, I'll begin with the summary of what our  
22 filing is.

1                   Essentially, and when we say soon, we  
2 mean within days, rather than weeks or months, soon we  
3 will be filing with you a petition to declare Rate 6L  
4 competitive for customers with peak period demand of 3  
5 megawatts or greater.

6                   A little background on Rate 6L, it is our  
7 large commercial and industrial rate. It's generally  
8 available to a customer with a maximum 30-minute  
9 demand of one megawatt or more during three of  
10 the past 12 months, and there are few other exceptions  
11 to it.

12                  What we are asking to declare competitive  
13 is a portion of the service under Rate 6L that  
14 customers with demands of 3 megawatts or greater  
15 during three months of the year, and it would be three  
16 months of the prior calendar year, in this case 2001.

17                  There are 373 customers impacted by this  
18 proposal and they represent over 20 percent of ComEd's  
19 annual nonresidential sales, so it's a small number of  
20 customers, but clearly a very substantial portion of  
21 the sales that flow over ComEd wires.

22                  What we like to do is have this

1 competitive declaration become effective through the  
2 tariff as of the June 2003 billing period. This does  
3 two things: One, by filing this now and getting some  
4 policy decisions now with an implementation several  
5 months into the future, we provide enough time for  
6 suppliers and customers to become familiar with the  
7 proposal, to understand what their choices are, and to  
8 make rational decisions. June is also a logical  
9 starting point, because that is the billing period in  
10 which we will be readjusting our Competitive  
11 Transition Charges, or CTCs.

12               Market values are effective for a June  
13 through a May billing period, so by making this change  
14 coincident with what we would be doing on the market  
15 value or CTC numbers, we at least have one decision  
16 point in which numbers will be changing uniformly.  
17 It's also an ideal time to begin the three-year  
18 grandfathering clock.

19               If you'll recall in the act, customers  
20 taking Rate 6L service, in this case as of the date  
21 it's declared competitive, is allowed three years to  
22 continue on that tariff, so by doing this in Calendar

1 Year 2003, we essentially take this grandfathering  
2 period out to 2006, which coincidentally is the end of  
3 the competitive transition period, so there again we  
4 have some symmetry, very close symmetry on time  
5 frames.

6                   Essentially, if you elect off of Rate 6L  
7 after the June 2003 billing period, you would not be  
8 allowed to return to 6L, so the grandfathering would  
9 apply to continuous service under 6L and 6L would not  
10 be available to new customers of 3 megawatts or  
11 greater after the June 2003 billing period.

12                   We would not be affecting the  
13 availability of Rate HEP, which is our hourly  
14 day-ahead pricing tariff, which, in effect, other than  
15 the interim supply service rate, would become the  
16 defacto default service for customers who chose not to  
17 go to another supplier and, after doing so, and who  
18 wanted to return to ComEd service.

19                   In addition to Rate 6L, there are several  
20 riders, which are attached to Rate 6L, whose  
21 availability will be limited and in similar fashion to  
22 the 6L limitation, and that would be Rider 6L,

1 governmental pumping service; our Rider 25, electric  
2 space heating service, and several parts of our  
3 interruptible curtailable portfolio, which include  
4 Rider 26, Rider 27, Rider 30, and Rider 32.

5                   We will, of course, be concerned about  
6 having a curtailable portfolio going forward and what  
7 we have been doing is modifying that portfolio from  
8 year to year, and I'm sure that we'll address our  
9 needs for the 2003 summer curtailables in some type of  
10 a curtailable tariff filing next fall or next spring  
11 rather to be effective for next summer.

12                   We will not be touching Rider GCB, which  
13 is the Governmental Consolidated Billing Service, or  
14 Rate IPP, which is our Independent Producer Service.  
15 These present particular complications with our  
16 competitive declaration at this point in time and do  
17 not propose to touch those.

18                   I think I'm going to be sharing some  
19 information with you which illustrates competitive  
20 choice in the 1-to-3 megawatt group of customers. I  
21 think you will agree that we have very strong  
22 compelling information, however, we don't want to

1 declare competitive the 1-to-3 megawatts at this point  
2 in time. It's the large number of customers, 1400  
3 customers, would require more time to transition  
4 potentially, so we'll share that information with you.  
5 You can see that the market is developing in that  
6 group, but we are concentrating today on the 3  
7 megawatts and greater group, and that's the group that  
8 would be impacted by our proposal.

9               So if we get into the evidence, basically  
10 we believe that given the current state of competition  
11 in our control area that the time is right to redefine  
12 the provider of last resort obligation and to create  
13 certainty in the marketplace as to how that obligation  
14 will be dealt with.

15               We have several supporting facts. We  
16 have a plentiful wholesale supply outlook with diverse  
17 ownership and a diverse fuel mix. We have a  
18 transmission system that continues to accommodate  
19 competitive deliveries, and we believe that we have  
20 sufficient retail activity, very strong retail  
21 activity, to support the new proposal.

22               If we turn to the first issue, wholesale

1 supplies, we shared this with you in the recent past.  
2 We have had 8,000 megawatts of independent power  
3 production connected to our system between 1999 and  
4 the summer. That's an additional 4300 megawatts of IP  
5 (sic) degeneration in the queue for a high-probability  
6 of connection by the end of 2004, so there are a lot  
7 of independent and new supplies of generation in the  
8 control area, not only that, these supplies are  
9 sufficient, and what we show here is a chart we shared  
10 with you in our summer preparedness presentation  
11 essentially showing the peak load forecast within the  
12 control area with the available capacity in the  
13 control area, and we believe we have sufficient  
14 reserve here to meet the expected 50/50 load  
15 obligation.

16                   We are going to see over 33,000 megawatts  
17 of generation in Northern Illinois by the end of 2004,  
18 and clearly that's a significant margin above the  
19 control area load projected for the control area.

20                   In addition, capacity that had been under  
21 contract to Exelon's power team to be used to deliver  
22 power to Commonwealth Edison is being released

1 beginning next summer.

2                   As you know, we have recently announced  
3 our return of 2,681 megawatts of essentially baseload  
4 and intermediate load capacity to Midwest Gen, meaning  
5 they'll be available for use by other suppliers and  
6 customers in the marketplace and no longer obligated  
7 to serve Commonwealth Edison load.

8                   So we have the Midwest Gen turning back  
9 the independent power production and all of this  
10 existing base of production means we are in a very  
11 good situation capacity-wise. In fact, those supplies  
12 are becoming much more balanced.

13                  There has been some concerns that so much  
14 of the independent power production can use peaking  
15 capacity. In fact, it was necessary that it be  
16 peaking capacity, Northern Illinois was blessed with  
17 an awful lot of base load generation and by 2004 you  
18 can see the mix that we're showing here is a much more  
19 balanced portfolio of generation available for serving  
20 customer growth profiles at the retail level, and that  
21 generation ownership is diverse. As you can see in  
22 1998, virtually all of the generation in the control

1 area was owned by ComEd.

2                   Now ComEd owns no generation, although  
3 Exelon by 2004 will own 30 percent. The Commission  
4 will own 28 percent, 9 percent will be demand and  
5 fully 33 percent will be a mix of other suppliers, so  
6 ownership is diverse, as well as supply type being  
7 diverse, and we are quite proud of the fact this  
8 didn't happen by accident.

9                   We believe that part of the reason why we  
10 are such a good supply situation is because  
11 Commonwealth Edison did encourage the development of  
12 new IPPs in our service area.

13                  As you'll recall, we posted a map of  
14 optimum locations. We standardized our  
15 interconnection policies and published them with FERC  
16 in our Blue Book. We have been active in promoting  
17 the development of renewable resources and distributed  
18 generation and, finally, our divestiture itself we  
19 believe created an environment which invited new  
20 generations into the service area.

21                  Of course, that new generation isn't  
22 sufficient unless you have transmission available to

1 transport the power transmission that's available.

2 We have been able to accommodate the delivery by the  
3 retail electric suppliers without incident.

4                   We have sold it successfully  
5 interconnected over 8,000 megawatts of new merchant  
6 generation and historically only 2 1/2 percent of RES  
7 requested transmission service have been reduced due  
8 to reliability concerns and that only 0.4 percent were  
9 due to a ComEd facility and on a real-time basis the  
10 ComEd transmission system has not been significantly  
11 internally constrained.

12                   We would point out that going forward for  
13 deliveries in the Year 2002 and beyond, ComEd has  
14 accepted more than 1300 RES requests for transmission  
15 and refused only five due to reliability concerns.

16                   Now the fact that we refused them doesn't  
17 doesn't mean that a transmission wasn't completed.  
18 There's the potential for a selection of other  
19 transmission paths or different sources of generation,  
20 which would have mediated the issue that might have  
21 been constrained at that point in time.

22                   Of the 931 TLRs that were called in 2001,

1 only one was called to protect ComEd's facilities. In  
2 that particular instance was an emergency went across  
3 our -- failed on the 345 kv transmission tower.

4               We believe that our decision to join PJM  
5 is going to further reinforce the transmission of  
6 availability. First of all, we'll have the central  
7 regional approach to transmission planning and  
8 operations; secondly, PJM comes with it a diverse  
9 marketplace, a robust marketplace that can be  
10 available to support both real-time and day-ahead  
11 transmissions.

12              We know that there are parties more  
13 interested in doing other types of transactions, by  
14 that other transactions outside of those markets, and  
15 perhaps different types of hedging instruments.  
16 The fact is you need those real-time and day-ahead  
17 markets to provide the underpinnings of liquidity and  
18 transparency of pricing that will enable the other  
19 markets to take place, so this is going to be very  
20 critical that we join a regional transmission  
21 organization with functioning markets and essentially  
22 in an area where both supplies and demands for power

1 and energy are most often transacted.

2 We also know that the LLP model is going  
3 to encourage the efficient location of transmission  
4 and generation within the PJM RTO.

5 Given all of the factors that are cited,  
6 we have seen studies of retail development. Again,  
7 you have seen this chart updated with more recent  
8 information.

9 Customers have opting off of our  
10 traditional bundled rates since October of '99. We  
11 have been on a continued upward projectory. There's  
12 been some interplay between RES supply and PPO supply,  
13 but the fact is customers are making the leap of faith  
14 and leaving Rate 6L, in particular, in large numbers.

15 The first chart is numbers of customers.  
16 The second chart is numbers of kilowatthour sales.  
17 The important thing here is that sales approaching 28  
18 percent of all ComEd sales have opted off of bundled  
19 rates.

20 What does this mean? Our large  
21 nonresidential customers are engaged in choice and are  
22 exercising choice. As a group, we expected the larger

1 customers to be the early adopters, and, in fact, they  
2 have shown that they have been the early adopters.  
3 They are choosing alternative resources and basically  
4 providing the data that we believe supports the  
5 competitive declaration.

6                   These customers are aware of their  
7 choices. We're seeing very rational choices being  
8 made and, in particular, they have a number of  
9 choices. There are five RESs that are currently  
10 active suppliers to the greater than 3 megawatt  
11 market.

12                   We have 11 RESs that are served by -- to  
13 serve in our service area. They're serving the  
14 various niches, and looking at five of them have been  
15 actively serving customers in the 3 megawatts or  
16 greater class.

17                   We have had two recent additions to the  
18 certified supplier list and it remains to be seen  
19 exactly which market they'll target, but we have five  
20 active suppliers today in the -- in this particular  
21 marketplace.

22                   To illustrate in greater detail why we

1 are choosing to make the breaking point at 3 megawatts  
2 and greater group, this chart shows customers who have  
3 had a single high demand in a year greater than  
4 four, example one megawatt, or 3 megawatts, or 6  
5 megawatts, and it shows the choices they have made.

6 I'll turn your attention to the bar at  
7 the bottom and it shows that roughly a third of the  
8 customers at 3 megawatts or greater are choosing other  
9 than unbundled service -- I mean, are choosing bundled  
10 service. Excuse me. The white bar is PPO and  
11 interruptible supply service, and there's a little  
12 poka-dot bar which shows RES assigned PPO service and  
13 then finally the red bar shows the RES supplied  
14 service, and you can see that only a third of the  
15 customers are still on bundled Rate 6L.

16 We have got obviously healthy switching  
17 numbers in the 1-to-3 megawatt group and even smaller,  
18 however, we're choosing to go with that market segment  
19 right now that is the most active, and that's 3  
20 megawatts and greater.

21 Certainly, we would hope that competition  
22 would continue to work its way down into the customer

1 groups and that at some point we could ask to declare  
2 the 1-to-3 megawatt group greater.

3 I mentioned the rational economic  
4 behavior. This just illustrates in greater detail  
5 what the 373 customers who are impacted by our filing  
6 have done. One hundred and seven have elected to stay  
7 on bundled rates, that's the 28, 29 percent. The 149  
8 are either on PPO service, or interruptible supply  
9 service, or with our affiliated ARES, and 113 are with  
10 an unaffiliated ARES. These numbers are slightly  
11 different than the prior chart because we are only  
12 using as our universe here the 373 customers that are  
13 actually impacted by our filing.

14 Remember, we have excluded some rates and  
15 we have got a criterion here that you hit 3 megawatts  
16 at least three times in a calendar month to be  
17 impacted by our filing.

18 The previous chart just shows someone who  
19 hits 3 megawatts once in a calendar year, but the  
20 numbers are very close and they're complimentary in  
21 their messages.

22 So while some customers may be concerned

1 about this filing, we truly believe that the impact of  
2 our filing will be minimal. There are a number of  
3 RESs that are willing and able to serve customers.  
4 The customers are not being left without a source of  
5 supply. We still have ComEd RESs that are available  
6 for them to take service under. We have a lot of  
7 supply available to the RESs, and then, of course, we  
8 have the grandfathering provisions available under the  
9 legislative statute, which affects the competitive  
10 declaration.

11                   And, for all of these reasons, there is a  
12 long transition in what we're requesting here. There  
13 is essentially a safety net for the customer who wants  
14 to stay on 6L service through 2006 and we have got all  
15 the pieces in play here that will insure that all  
16 customers are going to be phased in in this particular  
17 group with the availability to choose and to make  
18 economic choices.

19                   So why are we asking you to do this now?  
20 Again, the timing is right. All of the pieces are in  
21 place to say this particular market segment is  
22 self-sustaining. We can't declare it competitive and

1 be assured that customers won't be harmed; in fact,  
2 making that competitive declaration will help to  
3 further the competitive development in the  
4 marketplace.

5               Customers will be forced, so to speak,  
6 because Rate HEP will become the default offering, the  
7 hourly pricing. They're going to be forced to create  
8 a little bit of a demand pool in the marketplace for  
9 additional hedging opportunities, for additional  
10 demand-side management opportunities.

11              We've heard, particularly in the  
12 discussion and FERC on standard market design, for the  
13 need for demand bidding into markets, and Rate HEP is  
14 going to encourage that kind of demand pull or demand  
15 push, whichever way you look at it, to creating the  
16 regional markets that we are going to need.

17              The regional marketplace is enhanced.  
18 Because of the level of customer choice we have  
19 experienced, we have been able to turn back capacity  
20 in Midwest Gen.

21              The certainty in our filing is going to  
22 create certainty in the market direction in Northern

1 Illinois and it's just going to create the kind of  
2 momentum that we think is going to further us along so  
3 that by the end of the transition period the  
4 marketplace will truly be prepared.

5                   It's important to understand that right  
6 now Rate 6L really constitutes a free fixed price  
7 option and, so long as it's there, it's providing a  
8 insurance policy that perhaps isn't creating the push  
9 that we need to really get things rolling even more  
10 than they currently are.

11                   So I would like to conclude by saying  
12 that while our filing may be considered bold, we think  
13 the conditions support this declaration and we need to  
14 be awfully careful here that in our policy  
15 consideration that we not kill the market with  
16 kindness.

17                   At some point we need to boot the birdies  
18 out of the nest, which is what we intend to show here  
19 by our illustration and really eliminate that fixed  
20 price option of Rate 6L and get the market where it  
21 ought to be in terms of efficient and effective  
22 competition.

1                   We believe the conditions are sustainable  
2 and we hope that after reviewing the evidence in  
3 greater detail that you will also join us in that  
4 belief and that you will find the time is right to  
5 declare 3 megawatt greater service under Rate 6L  
6 competitive.

7                   With that, we'll take questions.

8       COMMISSIONER HARVILL: Thank you, Arlene.

9                   Questions from Commissioner Kretschmer.

10      COMMISSIONER KRETSCHMER: Thank you.

11                  Is it time to throw these customers out  
12 of the nest? Have you talked to your customers?

13      MS. JURACEK: We have been talking to the customers  
14 and many customers believe this is the right  
15 direction. I think some customers are understandably  
16 nervous that perhaps it is premature, and I liken this  
17 to -- I've never done this, but someone who's taken  
18 ski diving lessons who have taken ground school and  
19 use to jumping out with a harness and then finally  
20 gets to the point he has to make the first jump out of  
21 the airplane, and it's a little scary and I suspect  
22 that some of the reaction that some of our customers

1 have, but when you look at the numbers and you see  
2 that 70 percent of them are no longer taking Rate 6L  
3 service, I think that speaks well to the fact that  
4 they can continue to have economic choices available.

5 MR. CLARK: Commissioner Kretschmer, just to add to  
6 Arlene's response, I think your question is very  
7 insightful. To be brutally candid, it is, of course,  
8 unrealistic to expect anyone to voluntarily give up a  
9 free option, and that's what they have right now, but  
10 I think that most of the large customers prefer  
11 bidding to the competitive market, because, generally  
12 speaking, they feel they're better off; however,  
13 sometimes that can be a very difficult place, and to  
14 have a safety net is not a bad thing, and so, to that  
15 extent, you're obviously going to have some reluctance  
16 to walk away from the safety net.

17 COMMISSIONER KRETSCHMER: Mr. Clark, you know, it's  
18 awfully easy to say that we are in a more efficient  
19 market and that this is where we ought to be, but  
20 those customers who are not comfortable leaving may  
21 find it very hard to make this decision, this change,  
22 and I know you have given it enough time. You have

1 given them it three years, am I correct? They have  
2 three years before they have to leave?

3 MS. JURACEK: Right.

4 COMMISSIONER KRETSCHMER: So it's not like you are  
5 throwing them out tomorrow.

6 MR. CLARK: Well, they have three years, in fact,  
7 to actually come back. Arlene may be referring to if  
8 you were to approve this proposal we would be  
9 proposing that next year the 3 megawatts and above  
10 customers be able to transition into the marketplace.

11 COMMISSIONER KRETSCHMER: They have to leave next  
12 year?

13 MS. JURACEK: Well, a customer who is uncomfortable  
14 leaving and is taking 6L service in June 2003 will be  
15 able to stay on that tariff for three years.

16 COMMISSIONER KRETSCHMER: You are going to  
17 encourage them but not really throw them out?

18 MS. JURACEK: Right. Right.

19 COMMISSIONER KRETSCHMER: We received a letter --  
20 I'm sure the other Commissioners have all received  
21 it, too -- from Eric Robertson representing IIEC and  
22 they are concerned. Have you spoken with IIEC?

1 MS. JURACEK: We had a number of conversations with  
2 IIEC, both as a group and with independent members.  
3 They understand the conditions that are necessary for  
4 a mature marketplace to work, and I understand their  
5 concerns that not all of those aspects of the  
6 marketplace are fully mature.

7 Our message to you is that if we wait  
8 until they're all fully mature, we are going to be  
9 waiting forever, that we have to continue to take  
10 pro-active steps.

11 I think some of their concerns perhaps  
12 misapprehend how some of the market mechanisms work  
13 and we continue to meet with them to increase their  
14 comfort level.

15 COMMISSIONER KRETSCHMER: I know that we spoke  
16 about sufficient generation and you talked about the  
17 peaker plants that are being built in the area;  
18 however, there's no assurance that the output for  
19 those peaker plants are going to remain in Illinois.  
20 They could go to Kentucky, Indiana, or anyplace else.

21 Do you have some information that  
22 indicates that a good majority of peakers that are

1 being built in Illinois are going to be keeping the  
2 power in Illinois?

3 MS. JURACEK: I don't think you could say with  
4 certainty that a particular peaker will always supply  
5 load within Illinois. As a practical matter, the  
6 electrons flow at the point of least resistance, and  
7 so long as that generator is generating, in fact, the  
8 control area lights will stay on.

9 I think what we have been finding is that  
10 marketplace participants are making very rational  
11 choices and, to the extent you have got generation in  
12 the control area and it's supplying load in the  
13 control area, you can certainly avoid some  
14 transmission costs, some line-loss costs, et cetera.

15 So having the generation in the control  
16 area is certainly a good thing for the control area  
17 and for customers in it.

18 COMMISSIONER KRETSCHMER: Final question. You  
19 indicated that you have returned some power --  
20 I've forgotten how many megawatts -- to the generator  
21 for next year I believe.

22 MS. JURACEK: Yes.

1       COMMISSIONER KRETSCHMER:  How many megawatts was  
2  it?

3       MS. JURACEK:  Two thousand six hundred and  
4  eighty-four.

5       COMMISSIONER KRETSCHMER:  And you feel comfortable  
6  in doing that, that that demand can be met without  
7  that -- without that supply should it be necessary?  
8  I'm thinking this summer I think you used  
9  everything -- you're probably running everything you  
10 got.

11                   Do you feel comfortable by next summer  
12 that you would not need that over 2000 megawatts?

13       MS. JURACEK:  I think if you look at the load that  
14 has already shifted over to alternate retail supplier  
15 supply, RESs this summer are scheduling something like  
16 2500 megawatts of load power at the time of peak,  
17 which coincidentally is about the amount of capacity  
18 that would turn back to Midwest Gen.

19                   So although ComEd is not supplying that  
20 power, others are and, we believe that there's a match  
21 here between what we're turning back and what is being  
22 supplied by others.

1 COMMISSIONER KRETSCHMER: Thank you.

2 COMMISSIONER HARVILL: Chairman Mathias.

3 CHAIRMAN MATHIAS: It's always a pleasure to have  
4 Arlene here and discussing the proposals that are  
5 being advanced by Commonwealth Edison, and, of course,  
6 to Mr. Clark of Fortune 500 fame to be here.

7 I do have a couple of questions. I would  
8 preface this by just saying that if there's  
9 competition anywhere in the State of Illinois in any  
10 of the service territories, I think most of the market  
11 participants with whom I have spoken would say that  
12 that competition exist in the Commonwealth Edison  
13 service territory, and with regard to other service  
14 territories of the other incumbent electric utilities  
15 in Illinois, as I have stated publicly before on a  
16 number of occasions, they're either extremely limited  
17 or no competition.

18 So, as a preface, I would note that as  
19 far as I'm concerned, Commonwealth Edison sent their  
20 best today, and, secondly, if there is competition  
21 anywhere, it's in ComEd's service territory.

22 Having said that, on Page 15 of your

1 handout you use the term "competitive choice." Where  
2 is that term mentioned in the Electric Restructuring  
3 Law, the Customer Choice and Rate Relief Law of 1997?  
4 Where is it defined within that act? And if it's not,  
5 what does competitive choice mean?

6 MS. JURACEK: I think --

7 MR. CLARK: Arlene I think is giving you the  
8 totality of the response. I'm not sure it is defined  
9 in the act. I don't recall from my memory. I don't  
10 have Sarah Reed here with total recall, so it's  
11 difficult.

12 (Laughter.)

13 CHAIRMAN MATHIAS: Thank you for not having Sarah  
14 Reed.

15 MR. CLARK: I will tell her you said that.

16 (Laughter.)

17 So my recall is that it was not clearly  
18 defined. I'll let Arlene in a moment give you our  
19 definition. I think I know the essence behind your  
20 question, which is basically how do you define it, and  
21 I don't think the act is precisely clear on that.

22 CHAIRMAN MATHIAS: You use the term "affirmative

1 choice" as well. Where is that in the Electric  
2 Restructuring Law of 1997?

3 MR. CLARK: It may be some creative writing,  
4 Mr. Chairman.

5 MS. JURACEK: Basically they're making an  
6 affirmative choice by electing to get off of Rate 6L,  
7 so that's our intent is they're affirmatively getting  
8 off of tariffed rates.

9 CHAIRMAN MATHIAS: And, again, is there any  
10 definition that you can provide to us today as to the  
11 term "competitive choice" as used in Page 15?

12 MS. JURACEK: I think --

13 CHAIRMAN MATHIAS: Is that another oxymoron that  
14 you need to look at, such as the CTC, Competitive  
15 Transition Charge?

16 MS. JURACEK: A competitive choice is a choice  
17 competitive with the bundled tariff service, so  
18 it's an alternative service.

19 CHAIRMAN MATHIAS: Is it the choice of suppliers  
20 which are not affiliated with the Exelon Corporation?

21 MS. JURACEK: Certainly we provide any information  
22 to tell you how many customers are choosing

1 nonaffiliated suppliers, and we believe that's a very  
2 large number, but choice is to either an affiliated  
3 or a nonaffiliated. We have shown both numbers.

4 CHAIRMAN MATHIAS: But, again, is competitive  
5 choice a choice that would be of suppliers which are  
6 not affiliated with Exelon?

7 MS. JURACEK: That would certainly be a subset of  
8 competitive choice.

9 CHAIRMAN MATHIAS: Is it -- is competitive choice  
10 defined in your terminology to mean a choice of  
11 suppliers which are not affiliated with Exelon?

12 MR. CLARK: No, it would include that.

13 CHAIRMAN MATHIAS: Thank you.

14 If I were to play the devil's advocate  
15 role, on Page 3 of your handout, could I argue in the  
16 fourth bullet or third bullet that by not being  
17 allowed to return to Rate 6L this would be a  
18 substantial impediment to competition?

19 MS. JURACEK: We don't believe so, because  
20 customers have made choices and have elected to get  
21 off of a tariff and, by in large, have elected to stay  
22 off that tariff once they have made that choice.

1                   What we would provide in lieu of Rate 6L  
2   is our hourly energy pricing tariff and certainly the  
3   interim supply service tariff that we have. We are  
4   basically restructuring our provider of last resort  
5   obligation here, so taking away a fixed price option  
6   doesn't necessarily limit the competitive choices.

7       CHAIRMAN MATHIAS: This choice that you are  
8   providing to your customers, the Rate HEP, how many  
9   customers are now on HEP?

10      MS. JURACEK: One.

11      CHAIRMAN MATHIAS: And how long has that choice  
12   been available to customers?

13      MS. JURACEK: It's been available since -- it was  
14   mandated by the law to be filed. I don't recall.  
15   It's been a couple of years.

16      CHAIRMAN MATHIAS: And so you are going to allow  
17   these 3 or 400 customers to have the choice which one  
18   of those customers is now exercising?

19      MS. JURACEK: Yes.

20      CHAIRMAN MATHIAS: In the charts, Pages 5 through  
21   12 or 13, I believe you attempted to define  
22   competitive market, would that be correct, in other

1 words, you are stating that it involved the wholesale  
2 supplies available in generation which has been  
3 provided -- new generation provided in the state? Is  
4 that the importance of those Pages 5 through 12?

5 MS. JURACEK: I think what we are trying to show  
6 you was that the underpinnings are there to support  
7 a declared 6L competitive.

8 We know the act, for example, asks you to  
9 consider transmission availability, so certainly we  
10 have included the transmission data. The act also ask  
11 you to consider supplies by non-affiliated suppliers,  
12 which is one of the reasons why we broke out  
13 competition between affiliated supply and  
14 non-affiliated supply, and we believe all of this  
15 information is really added to the picture which would  
16 allow you to say that there are economic choices  
17 available to customers.

18 CHAIRMAN MATHIAS: But you would agree that there  
19 are a number of other indicia of competition in the  
20 Commonwealth Edison service territory?

21 MS. JURACEK: I would suspect so.

22 CHAIRMAN MATHIAS: You suspect so or you believe

1   there are?

2       MS. JURACEK:   There probably are.   I haven't  
3   enumerated them on a piece of paper.   There are  
4   certainly a number of ways to monitor this.

5       CHAIRMAN MATHIAS:   But with the number of  
6   competitive suppliers separating those affiliated with  
7   company utilities and not so affiliated, which  
8   has been certified by the Illinois Commerce  
9   Commission, be one of those indicia?

10      MS. JURACEK:   Certainly, yes.

11      CHAIRMAN MATHIAS:   With the number of retail  
12   customers switching from a company utility to  
13   nonaffiliated RESs or ARES be one of those indicia?

14      MS. JURACEK:   Yes.

15      CHAIRMAN MATHIAS:   Would the monthly rate of  
16   switching retail customers to an alternative provider  
17   be one of those methods of judging competition?

18      MS. JURACEK:   Sure.

19      CHAIRMAN MATHIAS:   But I'm not going to go through  
20   the whole list of potential indicia of competition,  
21   but I think it would be interesting to look at those  
22   as well.

1                   With regard to the one chart that you  
2 handed out, Pages 13 and 14, again, Arlene is such an  
3 excellent witness that's it's difficult and  
4 interesting to discuss these with us.

5                   But couldn't it, if I was playing the  
6 devil's advocate role, indicate that customers are  
7 going back to bundled rates and away from the PPO if  
8 you look at the blue line and the orange line?

9       MS. JURACEK: You know, I have a black-and-white  
10 copy, maybe Paul can bring it up on the screen.

11                  Okay. The orange line is a total Rate  
12 RCDS enrollment, so that makes total customers that  
13 have elected delivery services, including PPO service,  
14 interim supply service, or RES supply service. That  
15 number has continued to grow, so that number -- that  
16 line does not tell me that customers are returning to  
17 bundled service.

18       CHAIRMAN MATHIAS: I think you are correct. I'm  
19 wrong. One issue that we continue to hear discussion  
20 here of is the market value termination as allowed by  
21 the Illinois Commerce Commission and previously filed  
22 by Commonwealth Edison.

1                   If the ICC were to declare this  
2 particular sector of the marketplace,  
3 Commonwealth Edison service territory, competitive and  
4 if ComEd's market value determination continues to be  
5 quite low and unreflective of the marketplaces, how  
6 would ComEd cure this problem?

7           MS. JURACEK: First of all, we do believe that the  
8 market value index is reflective of market conditions  
9 and market conditions today are sufficient that market  
10 prices are low.

11                   We would agree that there is a lot of  
12 discussion to be held with respect to is the formula  
13 that we are using sufficient, does it have too much of  
14 a time lag in it, and other issues, should we be doing  
15 a multi-year determination of market value in CTCs.  
16 We agree there's a number of questions.

17                   In fact, this Friday those questions will  
18 begin to be addressed in a series of workshops that  
19 staff has put together for market stakeholders in  
20 the state, so we're looking forward to those continued  
21 discussions recognizing that there are some unsettled  
22 issues on the market value index.

1       CHAIRMAN MATHIAS: Obviously, I have some other  
2 questions, which we can ask of Arlene. I'll only go  
3 back to my original premise, and that is when you look  
4 at competition in the State of illinois for the past  
5 several years, enactment of a Customer Choice Law, I  
6 think there's competition anyway where here it  
7 certainly is in Commonwealth Edison's service  
8 territory, and I think that Commonwealth Edison, in my  
9 opinion, has done everything possible, but many things  
10 are possible. I'm sure their customers would like it  
11 to do more, but certainly have been extremely  
12 receptive to requests by the Illinois Commerce  
13 Commission and by others to attempt to promote  
14 competitive choice and competition within the  
15 Commonwealth Edison service territory, and I think  
16 that this proposal certainly grants (sic) very close  
17 scrutiny by the Illinois Commerce Commission.

18               I recognize that the dilemma in which you  
19 are in as an incumbent utility is a difficult  
20 situation, and, again, I would applaud your efforts in  
21 the past to promote a competitive environment within  
22 the ComEd service territory.

1 MR. CLARK: Thank you.

2 COMMISSIONER HARVILL: Commissioner Hurley.

3 COMMISSIONER HURLEY: And the rest of you all heard  
4 that. My question might be premature. I was going to  
5 ask, given that you have upcoming workshops on this,  
6 obviously following up on Commissioner Kretschmer's  
7 observation about the letter from Mr. Robertson at the  
8 IIEC, we are going to be asked by stakeholders, other  
9 industrial large customers, as well as ARES, you know,  
10 how do we respond to their negativism if, in fact,  
11 that's what we hear as a response so far?

12 MS. JURACEK: I would hope that the evidence that  
13 we will present in our filing will help to provide the  
14 food for that response.

15 COMMISSIONER HURLEY: I think my question might be  
16 a little premature at this time, but the first thing  
17 people -- the first thing I heard is that it is  
18 premature to do this.

19 MS. JURACEK: We have heard those concerns. We  
20 hope that we can address all the issues in our filing  
21 and, to the extent that anyone feels that perhaps  
22 there's an issue out there that they haven't expressed

1 to us, we will certainly be happy to hear it so that  
2 we could address it to the best we can.

3 MR. CLARK: Commissioners, our hope is over the  
4 course of this process the industrials and all the  
5 other stakeholders will have an opportunity through  
6 workshops and through these proceedings not only to  
7 voice their concerns but how we respond and attempt to  
8 address those concerns, because in the end I think --  
9 I don't want to speak for anyone, other than Com Ed --  
10 I believe if you ask some stakeholders, particularly  
11 the industrials, they do believe in the competitive  
12 market. They believe in a competitive market.

13 I would venture to say that the  
14 Illinois Restructuring Law that exist today is a  
15 direct result of the extreme push from the industrial  
16 sector to move towards a competitive market, so I  
17 doubt those beliefs have changed.

18 COMMISSIONER HURLEY: Clearly this type of customer  
19 is a very sophisticated purchaser of energy services.

20 MR. CLARK: Yes.

21 COMMISSIONER HURLEY: I have spent time with the  
22 members of the IIEC in various things they have

1 invited me to. I mean, these people are very  
2 sophisticated in their purchase of this particular  
3 product.

4                   Following up on a question that the  
5 Chairman asked and Arlene responded to, and God knows  
6 I probably just didn't understand, how does this  
7 proposal encourage customers to move back to 6L before  
8 2003 and stay there for three years?

9       MS. JURACEK: You know, that's a legitimate  
10 concern, and I'm sorry if I didn't understand if  
11 that's what the Chairman was asking.

12       COMMISSIONER HURLEY: Well, I didn't understand  
13 that's where he was going. I didn't get the answer.

14       MS. JURACEK: Certainly one scenario all customers  
15 could be afraid to make the leap and hurry up and  
16 jump back on 6L and stay there for three years.

17                   We would hope that by having this filing  
18 made now sufficiently in advance of June of 2003 to  
19 get the policy direction and to get everyone  
20 comfortable with it that then, in fact, the RESs are  
21 going to be able to provide economic alternatives for  
22 the customers and that would probably be not in their

1 best interest to all jump back onto 6L.

2                   The whole point of this is there are  
3 economic alternatives. These customers are making  
4 economically rational choices and it might be  
5 irrational or too costly of an insurance policy for  
6 them to take if they were all to jump back onto 6L.

7                   Currently, we have to keep the momentum  
8 going on all the different aspects that effect the  
9 marketplace.

10       COMMISSIONER HURLEY: It is an insurance policy in  
11 a way.

12       MS. JURACEK: Yes, it is.

13       CHAIRMAN MATHIAS: The question I think was asked  
14 was a double predicate on that Page 3 if you have a  
15 fluctuant market value over a three-or-four year  
16 period and hence a fluctuating CTC, I would think  
17 a number of customers would rather stay on 6L and have  
18 certainty rather than taking a risk and go whatever  
19 the year is that they leave 6L.

20       MS. JURACEK: You know, I think there's been a lot  
21 of lessons learned in this marketplace and in some  
22 cases where folks might have entered into multi-year

1 fixed price contracts perhaps misapprehending how much  
2 the CTC might fluctuate, perhaps they might begin to  
3 look at their contracts differently, perhaps hedging  
4 tools will develop differently, but certainly one of  
5 the things we are going to be talking about in the  
6 workshops that are coming up would be multi-year CTCs  
7 as a potential result to help smooth out some of this.

8 COMMISSIONER HURLEY: Let's take that certainty  
9 question a little further. You said earlier in your  
10 comments that you believe the POLR Proposal will  
11 have -- will create certainty.

12 How does that meet with the proposal  
13 having a positive impact on competition?

14 MS. JURACEK: In our view, having the certainty  
15 means having the certainty of the policy of how prices  
16 will be set for any type of default service and that  
17 will continue to encourage customers to take  
18 alternative choices, so it's the certainty of the  
19 policy.

20 I think we have been asked -- you have  
21 been asking many times so what's going to happen to  
22 prices after the rate freeze? What's going to happen

1 to prices generally during the rate freeze? What's  
2 going to happen? And by setting the long-term policy  
3 now for these large customers, they're going to know,  
4 begin in 2003 taking them through 2006 and beyond,  
5 what the fallback opportunity will be at the utility.  
6 And by knowing that and by knowing how it's priced in  
7 this case on the hourly day-ahead market, we think the  
8 impetus is there for some unique hedging instrument to  
9 be developed and for markets to mature to respond to  
10 that fallback opportunity.

11 COMMISSIONER HURLEY: Okay. It's always so  
12 interesting to see the audience. You don't get to see  
13 the audience when you are seeing one head shaking no,  
14 another head shaking yes, is as it should be. I think  
15 it tells you something is going on.

16 Should the Commission have any concerns  
17 about the transmission system as it relates to this  
18 proposal and what effects it could have on  
19 transmission systems?

20 MR. CLARK: I think the short answer is yes it is a  
21 legitimate area of concern. I think that it is  
22 different in different parts of the state.

1                   I believe that Arlene had -- I believe  
2   you had a slide up there that dealt with transmission  
3   capacity. I'm not going to say the issue is totally  
4   solved in Northern Illinois. It's certainly not the  
5   same issue in Northern Illinois that it is in other  
6   parts of the state.

7       COMMISSIONER HURLEY: It is not --

8       MR. CLARK: That's not as grave an issue --

9       COMMISSIONER HURLEY: -- as it is in the northern  
10   part of the state.

11      MR. CLARK: -- in other parts of the state.

12      COMMISSIONER HURLEY: But it is something the  
13   Commission has to be concerned with, I absolutely  
14   agree with that, and something we have to look at.

15                   That's all I have, Terry.

16      COMMISSIONER HARVILL: Commissioner Squires.

17      COMMISSIONER SQUIRES: Thank you, Commissioner  
18   Harvill, and hello, Mr. Clark and Ms. Juracek.

19      MR. CLARK: Hello, Commissioner.

20      MS. JURACEK: Hello.

21      COMMISSIONER SQUIRES: I have some questions.

22                   Regarding the approximately 2600

1 megawatts of Midwest Generation capacity, you have  
2 opted not to purchase in Year 2003, and I read in a  
3 recent press release that Midwest Generation has  
4 already begun selling the power forward for 2003, so  
5 is that, to your knowledge, when that capacity is made  
6 available as a retail alternative to Rate 6L for  
7 the customers that are subject to this filing?

8 MS. JURACEK: You know, I don't think we could know  
9 who Midwest Gen is selling that forward to, nor would  
10 they likely be willing to stand up and tell us. Those  
11 types of negotiations are always commercially  
12 sensitive.

13 I'm very encouraged by the fact that they  
14 are selling them forward and are buying -- getting  
15 willing buyers to buy that capacity. That's good for  
16 the marketplace. It argues well for it. We are not  
17 buying it, so somebody else must be, and we're always  
18 talking about many buyers and many sellers and  
19 transactions of this type are just going to create the  
20 kind of market that we need with the number of  
21 transactions.

22 COMMISSIONER SQUIRES: Generally speaking, in your

1 estimation, how long does it take to plan, finance,  
2 build, and bring to the retail market a new base load  
3 intermediate peaking generation supply respectively?  
4 In other words, how quickly in the face of supply  
5 (sic) interruptions or increased demand can a new  
6 supply be brought to the market?

7 MS. JURACEK: There's a lot of parts to that  
8 question.

9 COMMISSIONER SQUIRES: I know.

10 MS. JURACEK: In terms of ComEd's availability to  
11 meet its load servicing obligation, we believe that  
12 there are very sufficient resources out there where we  
13 could go out in a spot market, for example, and buy  
14 power and energy sufficient to meet our load serving  
15 responsibility on fairly short order.

16 With respect to building a plant and  
17 taking it through a whole value chain from  
18 construction down to retail sales, I think in  
19 the competitive marketplace, you'll find that there  
20 are different entities involved so that the retailer  
21 may be buying from a number of different generators.

22 Peaking capacity itself can be built

1 fairly quickly, again, depending where you want to  
2 site it, and particularly zoning concerns, for  
3 example, but it could be built in a matter of months,  
4 base load capacity may take you several years, but  
5 even that time frame is down significantly from the  
6 days when we were building Byron and Braidwood, for  
7 example, we're talking about two or three years  
8 possibly or something in that range versus the ten  
9 years or more in the old regime.

10               So suppliers have a diversity of supply  
11 that they can access much more quickly. Building the  
12 hardware takes somewhat more time and they have to  
13 have concurrently so there's enough hardware  
14 generating to meet the supplier's need in a  
15 transactional place.

16       COMMISSIONER SQUIRES: Okay. In ballpark figures,  
17 how do the Rate 6L bundled rate currently compare in  
18 price to and unbundled rate for delivery service, plus  
19 market based power and energy for a 3 megawatt  
20 customer? Is it higher or lower?

21       MS. JURACEK: Generally, we are finding that  
22 customers that have opted off of 6L have done it

1 economically, which means that for 70 percent of the  
2 customers getting off of 6L has helped a better deal.  
3 Because of the way transition charges are calculated,  
4 there is a mitigation factor in there which represents  
5 a opportunity for savings. It started out at 8  
6 percent and goes to 12 percent.

7                   We are finding that market prices are so  
8 low that when you crank through that formula that  
9 customers are angled (sic) to generally get the  
10 mitigation factor at least. Obviously, there are  
11 idiosyncracies dependent upon particular customer load  
12 profiles, but the 70 percent of the customers that  
13 have switched off are generally saving money.

14       MR. CLARK: Commissioner, that 8 to 12 percent  
15 minimum savings that Arlene just articulated doesn't  
16 take into account something we have no way of knowing  
17 and that's exactly what deals are being struck between  
18 our customers and a new supplier so some of them, not  
19 many, are doing better than that.

20       COMMISSIONER SQUIRES: That's about all I had to  
21 ask. I'm interested in the filing and I wanted to  
22 come back. Thank you.

1       COMMISSIONER HARVILL:  Thank you.  I have a few  
2  questions.

3                   I don't think it's any secret that I've  
4  been trying to get you out of the retail business for  
5  a long time, be it for discussion, or legislation, or  
6  emotional separation.  Those are just comments  
7  publicly.

8                   So I think that this is a step in the  
9  right direction, however, getting you out of the  
10 retail business without the distortions on the  
11 customers as they move in that kind of a market is  
12 extremely important as well, and I have some questions  
13 on that in a few minutes.

14                   Before I get to that though, on Page  
15 3 of your slide you talk about the 373 customers.  Who  
16 are we talking about here on the low end and on the  
17 high end, if you can divulge who they might be  
18 generally?  I'm just trying to get an idea of the  
19 degree of expertise they have in actually buying it  
20 and incorporating power.

21       MS. JURACEK:  On the high end, you have whatever  
22 steel mills are left and operating in our service

1 area. You would have entities like the Department of  
2 Energy, Fermi Lab, and Argonne Laboratories. You  
3 would have large manufacturers, like the drug  
4 manufacturers that are located in the northern end  
5 of our service area, and you would also have very,  
6 very large office buildings, for example, their  
7 building service load.

8                   On the low end you have smaller  
9 manufacturers, governmental buildings, smaller  
10 highrise buildings. If you look at a grocery store  
11 like a Dominick's consumes 800-kilowatts, so you are  
12 talking about somebody that's consuming the equivalent  
13 of three or four Dominick's or more in terms of power  
14 consumption, but it's a wide variety of governmental  
15 highrise buildings, manufacturers.

16           COMMISSIONER HARVILL: Thank you.

17                   You talk about at the bottom of Page 3  
18 Rate HEP, and the Chairman asked you some questions  
19 about the number of customers are actually taking  
20 service under Rate HEP.

21                   Given that customers have not taken  
22 advantage of that rate that's in place when a petition

1 is filed with the Commission, would you be open to  
2 changes of Rate HEP or modification thereof if it's in  
3 the best interest of consumers to do so?

4           The reason for my thinking here is Rate  
5 HEP hasn't really been tested as a viable alternative  
6 and it's going to be default if you move forward, so  
7 what I want to make sure is if we go down this path  
8 that the default mechanism isn't faulty and we don't  
9 end up in a situation where people are going to the  
10 default mechanism and the default mechanism is faulty  
11 and the whole system blows up figuratively speaking.

12           So would you be open to -- I don't want  
13 to say investigation of Rate HEP, for lack of a  
14 better word -- investigation of Rate HEP along with  
15 the examination in your petition?

16       MS. JURACEK: We have been considering some changes  
17 that would possibly be necessary anyhow it's  
18 to a 12-month term, and my thought is that that might  
19 now be conducive to the real competitive marketplace  
20 and that we could afford to reduce that term happens  
21 to several months and with sufficient notice to allow  
22 customers to get off of it sooner.

1                   Certainly, we would be open to any  
2 suggestions or concerns that you might have about HEP.  
3 The cost in that that we would have is that we can't  
4 make it so friendly that it becomes a company resting  
5 place.

6                   The point is it's an unhedged service.  
7 It's a real-time day-ahead price product, and our hope  
8 is that the marketplace will respond to provide the  
9 hedge, perhaps more fixed price product in competition  
10 with them.

11       COMMISSIONER HARVILL: You are testing my memory,  
12 but my concern is for more of the mechanics about  
13 how day-ahead prices are actually calculated more so  
14 than the terms of -- the terms are important, don't  
15 get me wrong, just making sure that it is an accurate  
16 day-ahead price and not unhedge price going forward  
17 and not something else.

18       MS. JURACEK: Certainly the method is certainly is  
19 very similar to the methodology in the market value  
20 index, so, to the extent that, first of all, that the  
21 marketplace matures, and, you know, our hope would be  
22 that by joining PJM we are going to have a

1 real-time market and a day-ahead market that will be  
2 into ComEd's market or certainly something better than  
3 what we have. It's into energy adjusted by peak load,  
4 and so our hope is that we're taking the actions to  
5 actually be able to jointly agree there's a better  
6 market index out there than what we are currently  
7 using.

8 COMMISSIONER HARVILL: Your third bullet point  
9 talks about the timing of the competitive declaration  
10 being June 2003. One of the outside comments during  
11 the period varies between Eric Robertson's first  
12 letter and today. A lot of people have suggested that  
13 it might be appropriate to declare a service  
14 competitive while you are still collecting the CTCs  
15 from that same customer group.

16 Can you talk about the CTCs for these  
17 particular customers as they transition away from 6L  
18 and not have the opportunity to return to 6L during  
19 this period and, in addition, that six month time  
20 frame which bridges the gap between when the service  
21 is declared competitive and the end of that transition  
22 period?

1 MS. JURACEK: I think, first of all, customers in  
2 this group, given today's market prices, definitely  
3 are paying CTCs when they were given a position of  
4 having zero CTCs. While that might have sounded good,  
5 I think we all know that was bad, because of market  
6 prices were so high that essentially going to a market  
7 base price would actually be higher than Rate 6L, but  
8 the CTCs are there.

9 As I have indicated, we are looking  
10 forward to discussing in the market index workshops to  
11 perhaps explore ways to be able to set multi-year CTCs  
12 and an opportunity to perhaps bring a little more  
13 certainty to that.

14 I tend to look at the CTC as a totally  
15 separate issue from a competitive declaration. I know  
16 others would choose not to look at it as a separate  
17 issue, but there was a legislative framework setup  
18 with a number of different component. Part of it was  
19 a formula that said in return for a lot of other  
20 things the utilities do get some stranded cost  
21 recovery opportunities, which is separate and above  
22 from whether or not its service is declared

1 competitive.

2 MR. CLARK: I would only add, Commissioner  
3 Harvill, that we are acutely aware of the issues  
4 surrounding the CTC with some of our customers, maybe  
5 many of our customers, and while we are in no way  
6 proposing any deviation from the law, we recognize  
7 this as an issue, and one of the ways perhaps  
8 addressing this is perhaps through workshops and maybe  
9 looking at a multi-year CTC or other innovative ways.  
10 We clearly recognize as an issue that needs to be  
11 reviewed.

12 COMMISSIONER HARVILL: I think that's one of the  
13 distortions that I was referring to earlier. If  
14 there's going to be distortion, let's get it out of  
15 the way as soon as possible the market function in an  
16 unincumbered fashion.

17 In my analysis of customers who are  
18 switching at this point in time, we found that the  
19 low-load factor customers had a tendency to do a  
20 little better than the high-load customers based on  
21 how the CTC is calculated.

22 That being the case, is it possible that

1 it could exist that there's some customers where the  
2 way CTCs are calculated it would be extremely  
3 uneconomic for them to be put in a situation where 6L  
4 is not available to them?

5 MS. JURACEK: I think if they were in a particular  
6 load-factor situation where exercising a choice to get  
7 off of 6L didn't make sense that they probably  
8 wouldn't have exercised that to begin with in which  
9 case they would be on 6L and they would have it  
10 through 2006 or through June 2006 at least.

11 COMMISSIONER HARVILL: One of the other concerns  
12 that obviously we will have going forward is the  
13 diversity of generation supply. There's not really a  
14 whole lot you can do about that.

15 You feel that it is sufficient to support  
16 the competitive market in moving these customers into  
17 this competitive framework solely without the backup  
18 of the 6L Rate?

19 MS. JURACEK: Yes, I do.

20 COMMISSIONER HARVILL: Obviously, you are aware  
21 from our comments to FERC in a number of different  
22 proceedings we have raised questions with regard to

1 transmission capability and had specifically requested  
2 information regarding the simultaneous import  
3 capability of Commonwealth Edison's more Illinois  
4 power determination of market-based rates.

5 Will that be contained in your testimony  
6 that you will be filing in support of the petition?  
7 If not, I'm warning you it probably will be requested  
8 of you if that does, indeed, occur.

9 MS. JURACEK: We'll take that under advisement  
10 assuming we discuss transmission. I don't recall if  
11 we had gotten down to discussing simultaneous import  
12 capability.

13 COMMISSIONER HARVILL: I think I have a couple  
14 more. I will tell you, while I'm doing that, are  
15 there any more questions?

16 COMMISSIONER KRETSCHMER: I have a couple of  
17 general questions.

18 Mr. Clark, the Chairman mentioned the  
19 fact that there's far more competition in the Com Ed  
20 area than in other parts of the state, and my question  
21 is, as a policy for this Commission, is it a good idea  
22 for us to go forward with this kind of encouraged

1 competition? What you are asking for today I would  
2 call that encouraged competition.

3                   Is that -- is it a good time for us to do  
4 that on a regional basis, or on part of the state, or  
5 should it be done? Would it be better -- I know you  
6 are going to answer me, of course, it's possible, of  
7 course it's better, but think about this. Would it be  
8 better to do this on the entire state at one time or  
9 is it practical to do it piece by piece?

10       MR. CLARK: Well, you are anticipating my response.  
11 I will give it any way. Yes, it is better to start  
12 now, and there's reasons for it though, Commissioner.

13   (Laughter.)

14                   As a factual basis, ComEd serves about 70  
15 percent of the state's population over a number of  
16 customers and in generation, as a practical matter,  
17 Northern Illinois is the industrial base not only for  
18 the State of Illinois, but I think you could arguably  
19 say for the midwest. That's the customer base that we  
20 are serving.

21                   If we are going to keep momentum, we have  
22 to develop competition, then you want to focus where

1 competition is really occurring and to move that  
2 momentum by -- throughout the state and throughout the  
3 midwest.

4                   If, as Arlene pointed out earlier, some  
5 of her comments get away for the ideal that all  
6 institutions are in place and that everything that is  
7 necessary to make competition worked perfectly,  
8 there's a saying -- I won't get it right, but you'll  
9 understand generally what I'm saying. If you work for  
10 the perfect answer, you will never make a decision.

11                   The Commission would be as a matter of  
12 public policy making a very important decision on the  
13 part of the State of Illinois and I do believe all the  
14 midwest by moving competition along in Northern  
15 Illinois.

16       COMMISSIONER KRETSCHMER: By the way, this is not a  
17 question. This is a statement. I notice with some  
18 glee, if you will, that ComEd was one of three  
19 utilities that filed for permit to the NRC to build a  
20 nuclear plant. I was forecasting that you would file  
21 on probably one of the upper northern sites you have,  
22 maybe along the lakefront, but I think you filed on

1 the Clinton site, and I'm very pleased about that.

2 MR. CLARK: In case there are any reporters in the  
3 room, I want to be clear here that that request was  
4 actually for the possibility or potential of future  
5 plans.

6 COMMISSIONER KRETSCHMER: Yes, I understand we are  
7 going to have a caveat.

8 My last question is I know Commissioner  
9 Harvill said he was very happy that you or he wanted  
10 you or he encouraged you to get out of the merchant  
11 function. I feel just the opposite.

12 Let me just suggest something to you. If  
13 a customer's going to have full choice, one of the  
14 choices should be to stay with the utility or to leave  
15 the utility but not be forced to leave.

16 So let me ask it flat out. Is your goal  
17 to get out of the merchant function?

18 MR. CLARK: It is our goal -- and I'm going to  
19 cite and quote our chairman --

20 COMMISSIONER KRETSCHMER: It's only between the two  
21 of us.

22 MR. CLARK: And when I finish, it's going to still

1 be between the two of us.

2 (Laughter.)

3 It is the policy of our chairman, John  
4 Roe, to continue to expand and develop Exelon as a  
5 distribution company, but a generation arm, and we do,  
6 in fact, own generation through Exelon Corporation,  
7 although not owned in the utility with that being a  
8 distribution company and we think that we have some  
9 idea how to run a nuclear power plant, so when the  
10 dust settles, we still look like an integrated  
11 company, if not an integrated utility.

12 COMMISSIONER KRETSCHMER: Spoken like a true  
13 executive. Thank you. But as they say, just a  
14 reminder, I see nothing wrong with a utility to  
15 staying in the merchant function. It gives customers  
16 a full range of choices.

17 I have no other questions.

18 COMMISSIONER HARVILL: Thank you, Commissioner.

19 Chairman Mathias.

20 CHAIRMAN MATHIAS: Nothing.

21 COMMISSIONER HARVILL: Commissioner Hurley.

22 COMMISSIONER HURLEY: Nothing.

1 COMMISSIONER HARVILL: Commissioner Squires.

2 COMMISSIONER SQUIRES: No, thank you.

3 COMMISSIONER HARVILL: I have one final question.

4 Can you walk through the process from  
5 which you are going to be filing the petition and what  
6 you would hope to see occur in the next few months  
7 with regard to your petition.

8 MS. JURACEK: What we would be asking the  
9 Commission to do would be to consider all of the  
10 evidence and to basically allow the filing to go into  
11 effect on 120 days under the rule of law as it's laid  
12 out in the Customer's Choice Act.

13 In our reading of that act, by doing  
14 that, you give yourselves an opportunity to revisit  
15 the competitive declaration and we think that's one of  
16 the safeguards that will -- should conditions change  
17 allow you to revisit that competitive declaration  
18 decision and provide for a bundled rate, so we think  
19 it's probably the safest way for everyone.

20 This is a case of first impression, first  
21 one out of the box. We understand the concern that  
22 this be a good decision and we think doing it this way

1 you'll be able to revisit.

2                   Should it turn out that conditions  
3 change, we would certainly hope they don't change, but  
4 this gives us the opportunity.

5       COMMISSIONER HARVILL: While I, for one, am looking  
6 forward to your filing, and as well as the other  
7 Commissioners, and if there are no other  
8 questions, thank you very much. We're adjourned and  
9 off the record.

10   (Whereupon, the above  
11   matter was adjourned.)

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